



U.S. Department of Justice

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**Jonathan W. Feldman
U.S. Magistrate Judge
Western District of New York**

Hon. Jonathan W. Feldman
United States Magistrate Judge
United States Courthouse
100 State Street
Rochester, NY 14614

**Re: United States v. Richard Leon Wilbern
17-CR-6016-JWF/CJS
17-CR-6017-JWF/CJS**

Dear Judge Feldman:

At oral argument on this matter, the Court instructed the government to describe the specific portions of the September 28, 2016 interview of the defendant that the government intends to offer at trial, by providing the applicable time stamps on the audio/video. The Court further requested that the government indicate whether the statements were made pre- or post-Miranda. The following conversations are located on compact 1 of 2, dated September 28, 2016:

**Pre-Miranda Statements - 09:36:21 through 09:36:51
09:46:54 through 09:56:16**

Post Miranda Statements - 10:05:10 through the conclusion of the video

In addition to the September 28, 2016 video, the Government also intends to offer the July 19, 2016 audio/video portraying the interaction between FBI SA Seth Fleitman and the defendant. On this date, Mr. Wilbern voluntarily provided his DNA by licking an envelope. The entirety of that interaction was captured on audio/video and has been provided to the Court. While none of the statements made by the defendant are in any way inculpatory, the Government does intend to play the video for the jury to demonstrate the manner in which the DNA was obtained.

Last, in a letter dated November 2, 2018, counsel for the defendant supplied the Court with several emails (Lead 1139-300-306). The government confirms that these emails were

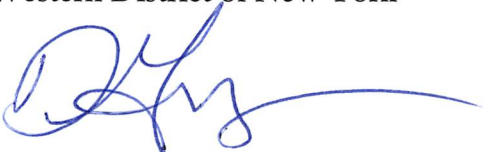
not authored by FBI SA Seth Fleitman, but were merely forwarded to him by the defendant. In particular, Lead 1139-305 is an apparent email discussion between the defendant and the individual fraudulently attempting to rent him property at 82 Southern Parkway.

Please feel free to contact me with any questions or concerns.

Respectfully submitted,

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BY:



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